

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON**

**DAVID EDWARD KLINEPIER,**

Petitioner,

v.

**BRAD CAIN,**

Respondent.

Case No. 2:19-cv-00673-JR

**ORDER**

Anthony D. Bornstein, Office of the Federal Public Defender, 101 S.W. Main Street, Suite 1700, Portland, OR 97204. Attorney for Petitioner.

Ellen F. Rosenblum and James M. Aaron, Oregon Department of Justice, 1162 Court Street NE, Salem, OR 97301-4096. Attorneys for Respondent.

**IMMERGUT, District Judge.**

On August 4, 2020, Magistrate Judge Jolie A. Russo issued her Findings and Recommendation (“F&R”) in this case, in which Petitioner David Edward Klinepier brings a Petition for Writ of Habeas Corpus pursuant to [28 U.S.C. § 2254](#). ECF 32 at 1. Magistrate Judge Russo recommended that this Court deny Petitioner Klinepier’s Petition, enter a judgment of dismissal, and deny a certificate of appealability. *Id.* at 7.

Petitioner Klinepier timely filed objections to the F&R. ECF 34. Respondent Cain filed a response to the objections. ECF 35. This Court has reviewed de novo the portions of the F&R to which Petitioner Klinepier objected. For the following reasons, the Court adopts Judge Russo's F&R in its entirety.

Under the Federal Magistrates Act ("Act"), as amended, the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). If a party objects to a magistrate judge's F&R, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* But the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Nevertheless, the Act "does not preclude further review by the district judge, *sua sponte*" whether de novo or under another standard. *Thomas*, 474 U.S. at 154.

Magistrate Judge Russo concluded that Petitioner is not entitled to habeas corpus relief as to all five of his asserted grounds. *See* ECF 32 at 6–7. Petitioner Klinepier objected to Judge Russo's findings and conclusions, *see* ECF 34 at 2, but relied on arguments that were fairly and competently addressed by Magistrate Judge Russo's F&R.

This Court has reviewed de novo the portions of Judge Russo's F&R to which Petitioner Klinepier objected. Finding no error, Judge Russo's F&R, ECF 32, is adopted in full. This Court DENIES the Petition for Writ of Habeas Corpus and DISMISSES this case with prejudice. The Court declines to issue a Certificate of Appealability because Petitioner Klinepier has not made a substantial showing of the denial of a constitutional right. *See* 28 U.S.C. § 2253(c).

**IT IS SO ORDERED.**

DATED this 3rd day of September 2020.

/s/ Karin J. Immergut  
Karin J. Immergut  
United States District Judge